

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Brandel Bowen,

Plaintiff,

v.

Norfolk Southern Railway Company,

National Railroad Passenger Corp.,

Defendants.

Civil Action No. 7:17-cv-00007-TMC

ORDER

This matter is before the court on Defendants' Motion for Settlement and for Sanctions Against Plaintiff. (ECF No. 114) and Plaintiff's Motion for Abeyance (ECF No. 126). The undersigned referred these motions to United States Magistrate Judge Kevin McDonald for a Report and Recommendation. Judge McDonald held a hearing on the motions on October 21, 2019, and all parties and attorneys appeared. (ECF No. 130). Before the court is Judge McDonald's Report and Recommendation ("Report"), recommending that that court grant in part and deny in part Defendant's Motion for Settlement and for Sanctions Against Plaintiff (ECF No. 114), such that the motion for settlement be granted and the motion for sanctions be denied. (ECF No. 132). The Report further recommends that Plaintiff's Motion for Abeyance (ECF No. 126) be denied. (ECF No. 132). The parties were advised of their right to file objections to the Report. *Id.* at 7. Although Plaintiff is represented by counsel, due to the nature of the case, Plaintiff's counsel was directed to provide Plaintiff with a written copy of the Report. (ECF No. 133). Plaintiff's counsel filed a certificate of service indicating that Plaintiff was given a written copy of the Report, including the notice of right to file objections, on October 25, 2019. (ECF No. 135). However, no party filed objections to the Report, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In

the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Accordingly, after a careful and thorough review of the record under the appropriate standards, as set forth above, the court adopts the magistrate judge’s Report (ECF No. 132), which is incorporated herein by reference. Accordingly, the court **GRANTS** in part and **DENIES** in part Defendant’s Motion for Settlement and Motion for Sanctions (ECF No. 114), such that the motion to enforce the settlement is **GRANTED** and the motion to impose sanctions is **DENIED**.

Additionally, Plaintiff’s Motion for Abeyance (ECF No. 126) is now moot as such motion requested that the court hold the Defendants’ motions in abeyance for (10) days from the date of Plaintiff’s Motion for Abeyance so that Plaintiff may obtain alternate counsel if he so chose. (ECF No. 126). In light of the fact that such time period has now passed and based on the disposition of Defendants’ motions as set forth herein, the court **DENIES as moot** Plaintiff’s Motion for Abeyance (ECF No. 126).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

November 14, 2019
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.